

Appln. No. 10,091,333  
Amdt. dated October 28, 2004  
Reply to Office Action of September 30, 2004

REMARKS

Claims 12-39 presently appear in this case. No claims have yet been examined on the merits. The claims have been subject to a restriction requirement. The official action of September 30, 2004, has now been carefully studied. Reconsideration and withdrawal of the restriction requirement and examination of all of the claims now present in the case are respectfully urged.

The examiner has required restriction among the following three groups of allegedly independent and distinct inventions:

- I. Claims 12-16, drawn to a method of treatment of a subject with an antagonist of a polypeptide;
- II. Claims 17-23, drawn to an RNA molecule; and
- III. Claims 24-33, drawn to a method of treatment of a subject with an RNA molecule.

This restriction requirement is respectfully traversed.

In order to be responsive, applicant hereby elects, with traverse, Group II, currently including claims 17-23. However, in accordance with MPEP §821.04, at least process claims 24-33, 38 and 39, as well as claims 35-37, should be rejoined with the product claims of claims 17-23 if the latter are found to be allowable.

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The examiner states that Groups I and III are unrelated as the invention of Group I operates by targeting and antagonizing a polypeptide while Group III operates by targeting a particular nucleotide sequence. However, the examiner misinterprets the claims of Group I. The term "antagonist of a polypeptide" is broad enough to include antagonism by inhibition, inactivation, blocking or reduction in gene activity or gene product. See the sentence bridging pages 20 and 21 of the present specification. To clarify this, claim 12 has now been amended to insert that the antagonist is added in an amount sufficient to effect an inhibition or inactivation of the protein so as to thereby treat the subject. This language is found in the sentence bridging pages 22 and 23 of the specification. Furthermore, new dependent claims 35-37 have been added to further emphasize this point. Accordingly, as the method of Group III is a species of the generic method of Group I, all of claims 12-16 and 24-39 should be included in the same group.

As to Groups II and III (or, more properly, Group II and the new Group that combines the claims of previously designated Groups I and III), these should be examined together because the therapeutic utility is the only practical utility for the RNA of Group II and therefore a full and proper search for the RNA would include a search of the

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therapeutic methods of use thereof. Accordingly, it would not impose a serious search burden to search all of the claims together in this case.

Accordingly, reconsideration and withdrawal of the restriction requirement and examination and allowance of all of the claims now present in this case are earnestly solicited.

Respectfully submitted,

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